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9 UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF WASHINGTON

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 JAMES DUANE DECKARD,

15 Defendant.

Case No. 1:22-CR-02066-MKD

GOVERNMENT'S SENTENCING
MEMORANDUM

16 Plaintiff, United States of America, by and through Vanessa R. Waldref, United
17 States Attorney for the Eastern District of Washington, and Michael J. Ellis, Assistant
18 United States Attorney for the Eastern District of Washington, submits the following
19 sentencing memorandum.

20 **I. BACKGROUND**

21 The Government agrees with the Offense Conduct summary outlined in
22 paragraphs nine through sixteen of the Presentence Investigation Report. *See* ECF
23 No. 33 at ¶¶ 9–16. Following a police chase which ended when the Defendant collided
24 with a fire engine, the Defendant fled and was found to be in possession of
25 ammunition. Further ammunition was found in the Defendant's vehicle. An
26 investigation revealed that, while attempting to elude law enforcement, the Defendant
27 had tossed a firearm with an obliterated serial number out of the car window where it
28

1 landed by a park. The Defendant's DNA was subsequently recovered from the
2 recovered firearm.

3 The Defendant, as a methamphetamine user and a person previously convicted
4 of a misdemeanor crime of domestic violence, was not allowed to possess either a
5 firearm or ammunition.

6 **II. SENTENCING CALCULATIONS**

7 **A. Base Offense Level & Enhancements**

8 The Government agrees that the Defendant's base offense level is fourteen (14).
9 The Government also agrees that the following specific offense characteristics and
10 adjustments apply:

11 -a four (4) level increase due to the obliterated serial number (U.S.S.G.
12 § 2K2.1(b)(4)(B));

13 -a four (4) level increase as the firearm was possessed in connection with
14 another felony offense (U.S.S.G. § 2K2.1(b)(6)(B));

15 -a two (2) level increase as the Defendant recklessly created a substantial risk of
16 death or serious bodily injury to another person in the course of fleeing from a
17 law enforcement officer (U.S.S.G. § 3C1.2).

18 Further, the Government concurs with the Presentence Investigation Report that the
19 Defendant merits a three (3) level reduction under U.S.S.G. § 3E1.1(a), (b).

20 The Government also agrees that the Defendant has a Criminal History
21 Category of IV.

22 As such, the Defendant's total, adjusted offense level is twenty-one (21) for a
23 guideline sentencing range of fifty-seven (57) to seventy-one (71) months.

24 **B. Departures**

25 The Government is not seeking an upward departure in this matter.

26 **III. SENTENCING FACTORS UNDER 18 U.S.C. § 3553(a)**

27 In determining the appropriate sentence, this Court should consider the factors
28 as set forth in 18 U.S.C. § 3553(a).

1 A. The nature and circumstances of the offense and the history and
2 characteristics of the Defendant

3 In light of the Defendant's guilty plea to a firearm possession felony offense,
4 the Government recommends a sentence slightly below the bottom of the sentencing
5 guidelines range – forty-eight (48) months imprisonment. In December 2021 the
6 Defendant committed a serious domestic violence assault, which led – a few days later
7 – to his flight and apprehension by law enforcement. The Defendant also repeatedly
8 attempted to interfere with the administration of justice, violating a no-contact order
9 with the victim (and passenger in his vehicle during the elude) on multiple occasions
10 and directly tampering with her with the goal of influencing her anticipated testimony.
11 The Defendant's conduct in the instant case highlights the danger the Defendant poses
12 to the community – the Defendant led law enforcement on a frantic chase through the
13 City of Yakima, discarded a firearm by a park where anyone – to include a child –
14 could have recovered it, and ultimately crashed into a fire engine, endangering
15 himself, his passenger, and other individuals in the area. In light of the Defendant's
16 plea of guilty, a forty-eight month sentence is sufficient, but not greater than
17 necessary, to effectuate the purposes of sentencing.

18 Further, the Government requests that the Court impose a three (3) year term of
19 supervised release. Given the Defendant's apparent drug use, firearm possession, and
20 repeated domestic violence conduct, a term of supervised release is appropriate to
21 protect the community from further criminal behavior once the Defendant completes
22 any custodial sentence imposed by the Court.

23 B. The need for the sentence imposed to reflect the seriousness of the offense,
24 promote respect for the law, and to provide just punishment

25 For the reasons discussed above, the Government asks that the Court sentence
26 the Defendant to forty-eight months imprisonment. Considering the nature of the
27 offense and the Defendant's history, such a sentence is appropriate to reflect the
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1 seriousness of the conduct, promote respect for the law, and provide just punishment.
2 The Government also asks that the Court order a three year term of supervised release.

3 C. The need for the sentence imposed to afford adequate deterrence to criminal
4 conduct

5 A forty-eight month sentence, followed by a three year term of supervised
6 release, will hopefully deter future criminal misconduct by the Defendant.

7 D. The need for the sentence imposed to protect the public from further crimes
8 of the Defendant

9 As discussed above, the requested three year term of supervised release will
10 protect the public from future criminal conduct by the Defendant.

11 E. The need for the sentence imposed to provide the Defendant with needed
12 educational or vocational training, medical care, or other correctional
13 treatment in the most effective manner

14 The Defendant may be able to take advantage of programs offered through the
15 Bureau of Prisons to assist with his apparent methamphetamine addiction.

16 F. The kinds of sentences available

17 The Court may sentence the Defendant to up to ten years in prison, a fine of up
18 to \$250,000, and three years of supervised release.

19 G. The kind of sentence contemplated by the Sentencing Guidelines

20 The Sentencing Guidelines contemplate a term of imprisonment.

21 H. Any pertinent policy statements issued by the Sentencing Commission

22 There are no pertinent policy statements in this case.

23 I. The need to avoid unwarranted sentence disparity among defendants with
24 similar records who have been found guilty of similar conduct

25 A sentence within the advisory guideline range would avoid unwarranted
26 sentence disparities.

27 J. The need to provide restitution to any victims of the offense

28 There is no restitution contemplated in this matter.

CERTIFICATE OF SERVICE

I hereby certify that on February 6, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following: Nick Mirr

s/ Michael J. Ellis
Michael J. Ellis
Assistant United States Attorney